



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



June 30, 2008

Bruce W. McClendon FAICP
Director of Planning

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Trillium Telecom Services, LLC
5912 Bolsa Avenue, Suite 202
Huntington Beach CA 92649
Attn: Jason Kozora

**REGARDING: PROJECT NUMBER R2006-03164-(2)
CONDITIONAL USE PERMIT NUMBER 200700020
4501 WEST SLAUSON AVENUE**

Dear Applicant:

The Regional Planning Commission, by its action of June 18, 2008, **APPROVED** the above described Conditional Use Permit.

The applicant or **ANY OTHER INTERESTED PERSON** may **APPEAL** the Regional Planning Commission's decision to the Board of Supervisors through the office of Sachi A. Hamai, Executive Officer, Room 383, Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012. Contact the Executive Office for the amount of the appeal fee at (213) 974-1426. The appeal must be postmarked or delivered in person within 7 days after this notice is received by the applicant.

If no appeal is made during this 7-day period, the Regional Planning Commission action is final. Upon completion of the 7-day appeal period, please notarize the attached acceptance forms and **hand deliver** this form and any other required fees or materials to the planner assigned to your case. It is advisable that you **make an appointment** with the case planner to assure that processing will be completed expeditiously. If you have any questions regarding this matter, please contact the Zoning Enforcement Section Jose De La Rosa at (213) 974-6453.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING
Bruce W. McClendon, FAICP
Director of Planning

Mark Child, Supervising Regional Planner
Zoning Permits II Section

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)

c: BOS; DPW (Building and Safety); Zoning Enforcement, Testifiers, etc

MC:jdlr

Hearing Footage: 4/9/2008 No.1601 & 6/18/2008 No. 1148

**FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION
COUNTY OF LOS ANGELES**

PROJECT NO. R2006-03164- (2)
CONDITIONAL USE PERMIT NO. 200700020

REQUEST: T-Mobile is requesting a Conditional Use Permit (CUP) to authorize construction, operation and maintenance of an unmanned wireless telecommunications facility affixed to four sections of an existing CVS pharmacy building located on a C-2-DP (Neighborhood Business-Development Program) zoned property.

REGIONAL PLANNING COMMISSION HEARING DATE: April 9, 2008, June 18, 2008

PROCEEDINGS BEFORE THE REGIONAL PLANNING COMMISSION:

April 9, 2008 Public Hearing

A duly noticed public hearing was held on April 9, 2008 before the Regional Planning Commission. Commissioner Valadez was absent. The applicant's representatives, Jason Kozora, Joe Thompson and Gilberto Santiago, presented testimony in favor of the request and answered questions presented by the Commission. Thirteen members of the Public were sworn in and testified in opposition to the project expressing concerns of possible depreciation of property values due to the fear of health risk believed to be associated with the emissions produced by the wireless telecommunications facility. They brought up discussions about additional phone coverage isn't needed; the applicant avoided other possible sites to locate or co-locate; and that the Federal Communication Commission's standards on Radio Frequency and Electromagnetic emission levels weren't safe. Correspondences opposed to the project were also received expressing the same reasons.

There being no further testimony, the Regional Planning Commission continued the public hearing to June 18, 2008 1) to allow the applicant to meet with the community and local community groups in regards to issues and concerns raised, staff to attend meeting also; 2) T-Mobile to provide a study on hillside view property values; 3) T-Mobile to provide a study related to radiation on rooftop of the garage and the distance from the antennas; and 4) County Counsel to provide case lawsuit from each side.

June 18, 2008 Public Hearing

The continued public hearing was held on June 18, 2008 before the Regional Planning Commission. All commissioners were present. The applicant's representatives, Jason Kozora, Joe Thompson and Gilberto Santiago, presented testimony in favor of the request and answered questions presented by the Commission. A member of the Public was sworn in and testified in favor of the project. Seven members of the Public were sworn in and testified in opposition to the project. They brought up discussions about the legitimacy of the applicant's claim on 911 calls in the area; improper notification for the community meeting; study on hillside view property values was not presented; the Radio Frequency-Electromagnetic Energy Compliance (RF-EME) Report was not

adequate; the project didn't meet Federal Communication Commission's standards; and the project didn't meet the maximum zoning height requirement. Correspondences opposed to the project were also received expressing the same reasons. Staff informed the commissioners that the project did meet development standards.

Commissioners Bellamy made a Motion establishing that the Regional Planning Commission found that the project was incompatible with the existing characteristics of the neighborhood, the concerns of the community greatly outreach the need for this type of development, and that staff be instructed to return with findings for denial. Commissioner Valadez seconds the Motion, but it fails for lack of qualified vote.

There being no further testimony, the Regional Planning Commission closed the public hearing and approved the permit with changes to the findings and conditions as agreed to by the applicant.

Findings

1. The subject property is located at 4501 West Slauson Avenue in the unincorporated area of Los Angeles and within the View Park Zoned District. The subject property is located within the View Park Community. The property is on the corner of Overhill Drive and West Slauson Avenue.
2. The applicant, T-Mobile, is requesting a Conditional Use Permit (CUP) to authorize construction, operation and maintenance of an unmanned wireless telecommunications facility affixed to four sections of an existing CVS pharmacy building located on a property zoned C-2 (Neighborhood Business). The proposed wireless facility includes five panel antennas and one GPS antenna attached to two existing trellises proposed to be raised in height by seven feet, four antenna panels attached to the existing parapet facing west located on the southwest corner of the building to be screened with a foam trim, and six equipment cabinets atop of a proposed concrete platform located adjacent to the northern wall of the building and underneath an extended portion of the rooftop parking area. All equipment cabinets and components of the facility will be located within a 400-square foot lease area. A safety rail will be constructed around the proposed facility. Access into the facility is via an existing driveway entrance on Overhill Drive located east of the lease area.
3. The subject property is located within the major commercial classification of the General Plan. The typical use patterns for this classification include central business districts, regional office complexes, major shopping malls and centers, and a range of mixed commercial retail and service activities. The intent of this classification is to situate commercial activities in viable clusters that conveniently serve their market areas and provide sufficient commercial lands to accommodate the projected labor force.

There are no specific policies related to the proposed use, unmanned wireless telecommunication facilities, in the General Plan.

4. The subject property is zoned C-2 (Neighborhood Business). The surrounding properties are zoned C-2 (Neighborhood Business) and R-1 (Single Family Residence) to the north, C-2 (Neighborhood Business) to the south and west, and C-2 (Neighborhood Business) and R-3-P (Limited Multiple Residence – Parking) to the east.
5. The subject property is approximately 33,810 square feet that is developed with a CVS Pharmacy building with a total of 61 parking spaces throughout the property. The subject property is located within a dense urban area surrounded by primarily single-family residential properties in all directions and commercial properties to the east and to the west.
6. Title 22 of the Los Angeles County Code (Zoning Ordinance) does not specify wireless telecommunications facility as a use. The use most closely matching a wireless telecommunications facility specified in the Zoning Ordinance is a radio or television tower. Under Section 22.28.160 of the County Code, development of radio and television stations and towers is a permitted use in Zone C-2 (Neighborhood Business), provided that a Conditional Use Permit has first been obtained.
7. Per Section 22.28.170 of the County Code, the development standards for C-2 Zone require the following:
 - That not to exceed 90 percent of the net area be occupied by buildings with a minimum of 10 percent of the net area landscaped with a lawn, shrubbery, flowers and/or trees, which shall be continuously maintained in good condition. Incidental walkways, if needed, may be developed in the landscaped areas. (22.28.170.A.)

The area for both parcels of the subject property is approximately 33,810 square foot. The existing 16,360 square foot building covers approximately 48 percent of the subject parcel. The existing landscaping throughout the subject property is located along Overhill Drive and Slauson Avenue with additional trees located along the western property boundary. Extra planters are also located on the rooftop parking lot. The proposed facility will not eliminate any landscaping area. The building and landscaping lot coverage is in compliance with the requirements of the C-2 Zone.

- That there are parking facilities as required by Part 11 of Chapter 22.52. (22.28.220.B.) Section 22.52.1110 of the County Code specifies that commercial uses require one parking space for every 250 square foot of floor area of any building or structure so used.

The existing pharmacy building is a 16,360 square foot structure with a net area

of 15,134 square feet; therefore, it is required to have a minimum of 61 parking spaces. There are currently 62 parking spaces striped on the subject property. However, one parking space is now occupied as shopping cart return area reducing the number of spaces provided to 61. Regardless, the parking is in compliance with the requirement of 61 parking spaces.

- A building or structure shall not exceed a height of 35 feet above grade, excluding signs which are permitted by Part 10 of Chapter 22.52, chimneys, and rooftop antennas. (22.28.170.C)

The proposed increase in height for both trellises with antenna panels will have a height of up to 35 feet above grade and is in compliance with the requirement.

- Outside Display. Except for the uses listed in this section, all display in Zone C-2 shall be located entirely within an enclosed building unless otherwise authorized by a temporary use permit. (22.28.170.D.)

The applicant is not proposing any outside display as part of this request.

- Outside Storage. No outside storage shall be permitted in Zone C-2. (22.28.220.D)

The applicant is not proposing any outside storage as part of this request.

8. Section 22.52.1220 determines parking requirements for uses not specified. The subject facility is unmanned and will require periodic maintenance visits only. There are adequate parking spaces throughout the property. The proposed facility will not eliminate any parking spaces.
9. The site plan depicts the subject property consisting of two parcels with an existing CVS Pharmacy building with a rooftop parking area that extends over the ground level driveway at the northern portion of the property and over the parking area at the western portion of the property. The proposed wireless telecommunications facility is affixed to four sections of the pharmacy building consisting of nine 4'-8" antennas and other related equipment. The wireless facility includes five panel antennas and one GPS antenna attached to two existing trellis on the rooftop proposed to be raised in height from 14'-0" to 21'-0". Another four antenna panels, spaced four feet apart, will be attached to the existing parapet located on the southwest corner of the building to be concealed with a foam trim matching the building's exterior, and six equipment cabinets atop of a proposed concrete platform and other associated equipment will be located within a 304 square foot area adjacent to the northern wall of the building and underneath an extended portion of the rooftop parking area. All equipment cabinets and components of the facility will be located within a 400-square foot lease area. A safety rail will be constructed around the proposed facility.

10. This project was determined to be categorically exempt (Class 3, New Construction or Conversion of Small Structures) under the environmental reporting procedures and guidelines of the California Environmental Quality Act (CEQA).
11. A total of 108 public hearing notices were mailed out to property owners located within the 500-foot radius of the subject property on February 26, 2008, regarding the subject proposal. Seven (7) notices were sent out to local community groups and residents in the View Park Zoned District courtesy list. The notice was published in the Los Angeles Sentinel and the La Opinion newspaper on March 6, 2008. Case-related material, including the hearing notice, factual, and burden of proof were sent on February 26, 2008, to the View Park Library located at 3854 West 54th Street in Los Angeles. The hearing notice was posted at the project site on March 6, 2008.
12. The equipment cabinets for the proposed facility will be fully screened from public view and therefore, it will be aesthetically compatible with the surrounding uses. The proposed facility was designed to provide efficient wireless telecommunications coverage without creating a visual impact.
13. This case was previously approved by a hearing officer. Pursuant to Section 22.60.200 of the County Code, the Regional Planning Commission called up the hearing officer's approval for review.
14. The wireless telecommunications facility is needed to provide a service to the local community by allowing wireless communications where very little service currently exists. This will be especially important in the event of an emergency or natural disaster.
15. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Regional Planning Commission determines that it is necessary to limit the term of the grant to 10 years.
16. The location of the documents and other materials constituting the record of proceedings upon which the Commission's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits II Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES:

- A. The proposed use is consistent with the adopted general plan for the area;

- B. The requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding areas, and not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety and general welfare;
- C. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, landscaping and other development features;
- D. The proposed site is adequately served by highways of sufficient width, and improved as necessary to carry the kind of traffic such use would generate and by other public or private facilities as are required.

THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a conditional use permit as set forth in Sections 22.56.040, Title 22, of the Los Angeles County Code (Zoning Ordinance).

REGIONAL PLANNING COMMISSION ACTION:

1. The Commission has considered the Categorical Exemption for this project and certifies that it is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.
2. In view of the findings of facts presented above, Project No. R2006-03164-(2) / Conditional Use Permit Case No. 200700020 is **APPROVED**, subject to the attached conditions.

c: Each Commissioner, Zoning Enforcement, Building and Safety

VOTE: 3-2

Concurring: Modugno, Rew, Helsley

Dissenting: Bellamy, Valadez

Abstaining:

Absent:

Action Date: June 18, 2008

MC:JD
6/30/2008

1. This grant authorizes T-Mobile to use the subject property for construction, operation and maintenance of an unmanned wireless telecommunications facility within a 400-square foot lease area of an existing CVS pharmacy building located at 4501 West Slauson Avenue, in the incorporated community of View Park as depicted on the approved Exhibit "A," subject to all of the following conditions of approval:
 - a. The property shall be developed and maintained in substantial conformance with the approved Exhibit "A". In the event that subsequent revised plans are submitted, the permittee shall submit three (3) copies of the proposed plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner;
 - b. The facility shall be operated in accordance with regulations of the State Public Utilities Commission;
 - c. Said facility shall be removed if in disuse for more than six months;
 - d. All structures shall conform with the requirements of the Building and Safety Division of the Department of Public Works;
 - e. The permittee shall provide written verification that the proposed facility's radio-frequency radiation and electromagnetic field emissions will fall within the adopted FCC standards for safe human exposure to such forms of non-ionizing electromagnetic radiation when operating at full strength and capacity for the lifetime of this conditional use permit. The permittee/operator shall submit a copy of the initial report on the said facility's radio frequency emissions level, as required by the Federal Communications Commission requirements, to the Department of Regional Planning;
 - f. The block wall and gate shall be painted to match the exterior of the existing building and the equipment cabinets shall be painted a neutral color, excluding black, and shall be maintained in good condition at all times;
 - g. Said facility, including any lighting, fences, shields, cabinets, and antenna panels shall be maintained by the operator in good repair, free from trash, debris, litter and graffiti, and other forms of vandalism. Any damage from any cause shall be repaired as soon as reasonably possible to minimize occurrences of dangerous conditions or visual blight;

- h. The operators shall submit an annual maintenance report to the Department of Regional Planning by January 1, verifying the continued operation and maintenance of the said facility; and
 - i. The operator shall provide satisfactory safeguards to prevent unauthorized access to the facility enclosure.
- 2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
- 3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition No. 10.
- 4. The permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
- 5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.
 - b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee according to Los Angeles County Code Section 2.170.010.

6. This grant will expire unless used within 2 years from the date of approval. A one-year time extension may be requested in writing and with payment of the applicable fee at least six (6) months prior to the expiration date.
7. If any material provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
8. Prior to the use of this grant, the property owner or permittee shall **record the terms and conditions** of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
9. **This grant will terminate on June 18, 2018.** Entitlement to use of the property thereafter shall be subject to the regulations then in effect. At least six (6) months prior to the expiration of this permit and in the event that the permittee intends to continue operations after such date, a new Conditional Use Permit application shall be filed with the Department of Regional Planning. The application shall be a request for continuance of the use permitted under this grant, whether including or not including modification to the use at that time.
10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. The permittee shall deposit with the County of Los Angeles the sum of \$750.00. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The deposit provides for five (5) biennial inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the

approved site plan on file. The amount charged for additional inspections shall be \$150.00 per inspection, or the current recovery cost, whichever is greater.

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance.
12. Upon receipt of this letter, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Fire Department to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided as may be required by said Department.
13. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.
14. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not directly relate to the facility being operated on the premises or that do not provide pertinent information about said premises.
15. In the event of such extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.